UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,785	04/13/2001	Edward A. Hubbard	UNTD:021	8392

29444 7590 04/20/2005		EXAMINER
KELLY K. KORDZIK		DALENCOURT, YVES
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PO BOX 50784	ART UNIT	PAPER NUMBER
DALLAS, TX 75201	2157	

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _01/06/2005_.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _29-54_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _29-54_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

This office action is responsive to amendment filed on 01/06/2005.

Response to Amendment

1.   The examiner has acknowledged the amended specification, the amended

abstract, the cancellation of claims 1 – 28, and the submission of new claims 29 – 54.

Response to Arguments

2.   Applicant's arguments with respect to claims 29 - 54 have been considered but

are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 29 – 54 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee

et al (US 6,601,101; hereinafter Lee).

        Regarding claims 29 – 30 and 42 - 43, Lee teaches a method and system for

providing network attached storage (NAS) services (col. 1, lines 15 – 22), which

comprises the steps of configuring a distributed processing system by coupling a

multiplicity of distributed devices using a network, wherein each of the distributed

devices is enabled by a client agent program to process workloads for the distributed

processing system (col. 1, lines 24 - 41); configuring the client agent program to have a

software-based (NAS) component and to access unused or under-utilized resources in

selected distributed devices from the multiplicity distributed devices (col. 2, lines 7 – 28;

Lee discloses a network attached storage in which, disks are detached from the server

and placed on the network); generating a representation by the software-based NAS

component that the selected distributed devices are each NAS devices having an

available amount of storage resources selected from the unused and under-utilized

storage resources (col. 2, lines 35 - 47); and processing data storage and access

workloads for the distributed processing system by accessing data from or storing data

into portions of the available amounts of storage resources of the selected distributed

service to provide the NAS services to client devices coupled to the network (fig. 3; col.

6, line 61 through col. 7, line 58; col. 22, lines 12 - 30).

Regarding claims 31 and 44, Lee teaches the method and system of claims 29

and 42, wherein the client agent program enables at least one of the selected

distributed devices to function as a location distributed device to store location

information for data stored by the selected distributed devices (col. 4, lines 39 - 65).

Regarding claims 32 and 45, Lee teaches the method and system of claims 31

and 44, which further comprising enabling the location distributed device to receive data

storage and access requests from the client devices coupled to the network and to

direct the client devices to the selected distributed devices storing the requested data (col. 7, lines 11 – 15; Lee discloses the first device determines that another device in the cluster is better suited to handle the client request).

Regarding claims 33 and 46, Lee teaches the method and system of claims 32 and 45, which further comprising managing the NAS services at least in part utilizing at least one centralized server system (col. 4, lines 19 – 23; Lee discloses that it is particular useful when a server is a virtual IP address for multiple devices such as NAS).

Regarding claims 34 and 47, Lee teaches the method and system of claims 33 and 46, wherein the centralized server system downloads the NAS component to the client agent programs in the distributed devices (col. 19, lines 37 – 50; Lee discloses a TCP handoff involves transferring TCP state information from the server to a disk).

Regarding claims 35 and 48, Lee teaches the method and system of claims 33 and 46, wherein the centralized server system stores location information for data stored in the selected distributed devices and at least in part directs the client devices to the distributed devices storing the requested data (col. 7, lines 11 – 15; Lee discloses the first device determines that another device in the cluster is better suited to handle the client request).

Regarding claims 36 and 49, Lee teaches the method and system of claims 35 and 48, which further comprising utilizing the centralized server system to receive data storage and access requests from the client devices and to route data storage and access workloads to the selected distributed devices based in part upon individual capabilities of the selected distributed devices, wherein the individual capabilities are

stored in a capabilities database coupled to the centralized server system ((col. 5, lines

4 – 17; col. 7, lines 35 – 58; col. 19, lines 15 – 67; col. 20, lines 1 – 26; Lee discloses

load balancing, which refers to networked devices which can share a work load, for

instance two or more servers).

Regarding claims 37 and 50, Lee teaches the method of claims 29 and 42,

wherein the network is the Internet (col. 2, lines 22 – 35; col. 4, lines 32 – 35).

Regarding claims 38 and 51, Lee teaches the method of claims 29 and 42, which

further comprising managing storage resources for the selected distributed devices

using a storage priority control that facilitates full use of the available amounts of

storage resources (col. 2, lines 7 – 19; col. 7, lines 35 – 58; Lee discloses that when the

first device is a load balancing device, satisfactory measures for load balancing may

include traffic through the switch, reported workload or available capacity of alternate

devices, or analysis of the services being requested).

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 39 – 41 and 52 – 54 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Lee et al (US 6,601,101; hereinafter Lee).

Regarding claims 39 - 41, Lee substantially teaches all the limitations in claims
38 and 51, but fails to explicitly teach a method, wherein the storage priority control
comprises a parameter selectable through one of the client devices (claim 39); wherein
the storage priority control comprises storage priority level schemes that prioritize data
storage and deletion (claim 40); and wherein the storage priority control comprises a
priority marking directly given to data or files (claim 41).

However, "**official notice** " is taken that the concept and advantages of having a
storage priority control that comprises a parameter selectable through the client device;
wherein the storage priority control comprises storage priority level schemes that
prioritize data storage and deletion; and wherein the storage priority control comprises a
priority marking directly given to data or files are old and well known in the art.

Thus, it would have been obvious to one of ordinary skill in the art at the time the
invention was made to modify Lee and Applicant's admitted prior art by having a
storage priority control that comprises a parameter selectable through the client device;
wherein the storage priority control comprises storage priority level schemes that
prioritize data storage and deletion and wherein the storage priority control comprises a
priority marking directly given to data or files for the purpose of providing higher overall
multi-processing system performance efficiency.

Conclusion

7.   Applicant's amendment necessitated the new ground(s) of rejection presented in
this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

8.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Bonnell et al (US Patent Number 5,655,081) discloses a system for monitoring

and managing computer resources and applications across a distributed computing

environment using an intelligent autonomous agent architecture.

Contact Information

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Yves Dalencourt whose telephone number is (571) 272-

3998. The examiner can normally be reached on M-TH 7:30AM - 6: 00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Yves Dalencourt

April 14, 2005

ARIO ETIENNE

SUPERVISORY PATENT EXAMINER

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